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Paper No. 13

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BOSTON, MA 02109

In re Application of: Y. Schmeidler et al.
Application No.: 09/310,294
Filed: May 12, 1999
For: METHOD AND APPARATUS FOR
SECURE CONTENT DELIVERY OVER
BROADBAND ACCESS NETWORKS

DECISION ON PETITION
TO MAKE SPECIAL

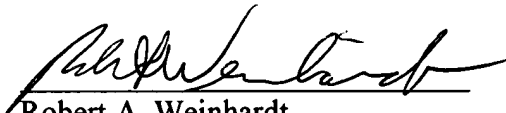
This is a decision on the petition filed July 9, 2001 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. §1.17(i) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that: (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. Finally, applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition does not meet the requirements for special status in that it does not clearly include an indication regarding references "deemed most closely related to the subject matter encompassed by the claims" as per M.P.E.P. §708.02, Section II. While petitioner has indicated that "the assignee has made or caused to be made a careful and thorough search of the prior art", and the assignee has stated that they "have asked our attorney to perform a careful and thorough search", no art has been provided with this petition identified as "references deemed most closely related to the subject matter encompassed by the claims". Also, there is no representation made that the art already of record, e.g. the Information Disclosure Statements filed prior to the petition, are the "references deemed most closely related". As a result, there is no clear indication that applicant has provided one copy of each reference deemed most closely related.

Accordingly, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement giving the information as outlined above. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.

A handwritten signature in black ink, appearing to read 'Robert A. Weinhardt', is written over a horizontal line.

Robert A. Weinhardt
Special Program Examiner
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